

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Brian SMITH, Charles GILSON, III, Jeffrey SCHULTZ, and Scott ESTRADA

For: BENZAZEPINE DERIVATIVES AND METHODS OF PROPHYLAXIS OR TREATMENT OF 5HT<sub>2C</sub> RECEPTOR ASSOCIATED DISEASES

## DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

## TYPE OF DECLARATION

This declaration is for the following type of application:

*(check one applicable item below)*

<input type="checkbox"/> Original	<input type="checkbox"/> Divisional
<input type="checkbox"/> Continuation	<input checked="" type="checkbox"/> U.S. National Stage of PCT
<input type="checkbox"/> Continuation-in-Part	

My residence, post office address and citizenship are as stated below next to my name; and I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a

<input checked="" type="checkbox"/> Utility Patent	<input type="checkbox"/> Design Patent
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is sought on the invention, whose title appears above, the specification of which:

<input type="checkbox"/> is attached hereto
<input type="checkbox"/> was filed on _____, as U.S. Serial Number _____
and was amended on _____ <i>(if applicable)</i>
<input checked="" type="checkbox"/> was described and claimed in PCT International Application Number <u>PCT/US2004/034917</u> filed on <u>October 21, 2004</u> .

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to be material to the patentability of this application in accordance with 37 CFR § 1.56.

**DISCLOSURE AND/OR CLAIM FOR PRIORITY UNDER  
35 U.S.C. §§ 119(a)-(d) OF FOREIGN APPLICATIONS  
FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN)  
OF THIS APPLICATION**

I hereby claim foreign priority benefits under Title 35, United States Code §§ 119(a)-(d) of any foreign applications for patent, inventor's certificate or PCT international application designating at least one country other than the United States of America listed below and have also identified below any foreign application for patent, inventor's certificate or any PCT international application designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

Country (or indicate if PCT)	Application Number	Date of Filing (day, month, year)	Priority Claimed Under 37 USC 119a-d
			Yes <input type="checkbox"/> No <input type="checkbox"/>
			Yes <input type="checkbox"/> No <input type="checkbox"/>
			Yes <input type="checkbox"/> No <input type="checkbox"/>
			Yes <input type="checkbox"/> No <input type="checkbox"/>

**DISCLOSURE OF FOREIGN APPLICATION(S) IF ANY,  
FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN)  
PRIOR TO THE FILING OF THIS APPLICATION**

Country (or indicate if PCT)	Application Number	Date of Filing (day, month, year)

**CLAIM FOR PRIORITY OF UNITED STATES APPLICATIONS  
OR PCT APPLICATIONS FILED  
IN THE UNITED STATES RECEIVING OFFICE  
UNDER 35 U.S.C. §120**

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to be material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Application No.	Date Filed	Status <u>Patented/Pending/Abandoned</u>

**CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)  
UNDER 35 U.S.C. § 119(e)**

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

Provisional Application Number	Filing Date
60/513,865	October 22, 2003

**POWER OF ATTORNEY**

I hereby appoint all the practitioners associated with Customer Number 27737 (which is the Customer Number assigned to Arena Pharmaceuticals, Inc. to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith. Each practitioner associated with Customer Number 27737 is an attorney registered before the United States Patent and Trademark Office.

Address all correspondence and maintenance fee correspondence to the address identified in Customer No. 27737 which is assigned to Arena Pharmaceuticals, Inc. 6166 Nancy Ridge Drive, San Diego, CA 92121.

Direct all telephone calls to: Lyle W. Spruce.

**Arena Pharmaceuticals, Inc.**  
6166 Nancy Ridge Drive  
San Diego, CA 92121  
Telephone No.: (858) 453-7200  
Facsimile No.: (858) 677-0065

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**Full name of sole or first joint inventor**

Brian  
(Given Name)

(Middle Initial or Name)

Smith  
Family (or last name)

**City/State of Actual Residence:** San Diego, California

**Mailing Address:** 13182 Mesa Crest Place, San Diego, California 92129

**Country of Citizenship:** US

**Inventor's signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**Full name of second joint inventor**

Charles  
(Given Name)

(Middle Initial or Name)

Gilson, III  
Family (or last name)

**City/State of Actual Residence:** San Diego, California

**Mailing Address:** 4259 Del Mar Avenue, San Diego, California 92107

**Country of Citizenship:** US

**Inventor's signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**Full name of third joint inventor**

Jeffrey  
(Given Name)

(Middle Initial or Name)

Schultz  
Family (or last name)

**City/State of Actual Residence:** San Diego, California

**Mailing Address:** 10156 Prairie Fawn Drive, San Diego, California 92127

**Country of Citizenship:** USA

**Inventor's signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**Full name of fourth joint inventor**

Scott  
(Given Name)

(Middle Initial or Name)

Estrada  
Family (or last name)

**City/State of Actual Residence:** San Diego, California

**Mailing Address:** 415 Colima Street, No. 15, La Jolla, California 92037

**Country of Citizenship:** USA

**Inventor's signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_